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20 UNITED STATES DISTRICT COURT  
21 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
22 SAN FRANCISCO DIVISION

23 AMERICAN FEDERATION OF  
24 GOVERNMENT EMPLOYEES, AFL-CIO;  
25 AMERICAN FEDERATION OF STATE  
26 COUNTY AND MUNICIPAL EMPLOYEES,  
27 AFL-CIO; et al.,

28 Plaintiffs,

v.

UNITED STATES OFFICE OF PERSONNEL  
MANAGEMENT, et al.,

Defendants.

Case No. 3:25-cv-01780-WHA

**DECLARATION OF MILANA WALLS**

1  
2 I, Milana Walls, declare as follows:

3 1. I am over 18 years of age and competent to give this declaration. This declaration is  
4 based on my personal knowledge, information, and belief.

5 2. I am a Litigation Assistant at Altshuler Berzon LLP. I have worked for the Altshuler  
6 Berzon LLP since June of 2024.

7 3. Extensive data concerning the federal workforce is available at  
8 <https://www.fedscope.opm.gov/> (“Fed Scope”). For the purposes of this lawsuit, I have repeatedly  
9 accessed Fed Scope to review the available data regarding personnel actions. According to Fed Scope’s  
10 Separations Trend data cube (a database that provides information about personnel actions for each  
11 fiscal year), only 364 federal government employees in California were terminated for discipline or  
12 performance-related reasons between October 2023 and March 2024.

13 4. Fed Scope also permits members of the public to view certain federal employment  
14 statistics for particular months. As of the date of this declaration, Fed Scope showed that the total  
15 number of persons employed by the federal government in California was at least 150,544 as of August  
16 2024—the most recent month for which there is available data. According to Fed Scope, this figure  
17 excludes employees in the “Federal Bureau of Investigation (Justice Department), Drug Enforcement  
18 Agency (Justice Department), Bureau of Alcohol, Tobacco, and Firearms (Treasury/Treasury and  
19 Justice Department beginning in 2003), Secret Service (Treasury/Homeland Security Department  
20 beginning in 2003); or Bureau of the Mint (Treasury Department)”.

21 5. Based on the data available on Fed Scope, I compiled the available data showing the  
22 total number of federal employees for each federal department or division (excluding the departments  
23 identified above, for which Fed Scope does not provide such data). A true and correct copy of the chart  
24 I compiled reflecting this data is attached as Exhibit A.

25 6. I have carefully reviewed the OPM’s website on February 23, 2025 and there is no  
26 information being provided to the public on the numbers of probationary employees who have been  
27 terminated from any federal agencies since early February.  
28

1           7. I downloaded from OPM's website a memorandum published by OPM on January 20,  
2 2025. A true and correct copy of that memorandum is attached as Exhibit B.

3  
4 Executed this 23 day of February in San Francisco, California.

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7 Milana Walls  
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# Exhibit A

Department	Aug-24
AF03-AIR FORCE OPERATIONAL TEST AND EVALUATION CENTER	40
AF07-AIR FORCE OFFICE OF SPECIAL INVESTIGATIONS	19
AF0J-AIR EDUCATION AND TRAINING COMMAND	58
AF0M-HEADQUARTERS, AIR FORCE RESERVE COMMAND	944
AF1C-AIR COMBAT COMMAND	494
AF1L-AIR MOBILITY COMMAND	725
AF1M-AIR FORCE MATERIEL COMMAND	4,137
AF1Y-AIR FORCE CIVILIAN CAREER TRAINING	163
AF4G-UNITED STATES SPACE FORCE	580
AF6F-UNITED STATES SPACE FORCE FORCES	168
AF6K-United States Space Force Components	46
AF6S-SPACE SYSTEMS COMMAND	1,196
AF6T-SPACE TRAINING AND READINESS COMMAND	26
AFGS-AIR FORCE GLOBAL STRIKE COMMAND	26
AFNG-AIR NATIONAL GUARD UNITS	530
AG02-AGRICULTURAL MARKETING SERVICE	355
AG03-AGRICULTURAL RESEARCH SERVICE	565
AG07-RURAL DEVELOPMENT	121
AG08-RISK MANAGEMENT AGENCY	15
AG11-FOREST SERVICE	6,966
AG14-OFFICE OF THE GENERAL COUNSEL	15
AG16-NATURAL RESOURCES CONSERVATION SERVICE	408
AG20-NATIONAL AGRICULTURAL STATISTICS SERVICE	37
AG23-OFFICE OF THE INSPECTOR GENERAL	24
AG30-FOOD AND NUTRITION SERVICE	134
AG34-ANIMAL AND PLANT HEALTH INSPECTION SERVICE	358
AG37-FOOD SAFETY AND INSPECTION SERVICE	558
AG99-FPAC BUSINESS CENTER	24
AGFA-FARM SERVICE AGENCY	62
AGIT-OFFICE OF THE CHIEF INFORMATION OFFICER	50
AM00-U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT	46
AR2A-UNITED STATES ARMY CYBER COMMAND	114
ARAE-U.S. ARMY ACQUISITION SUPPORT CENTER	12
ARAF-UNITED STATES ARMY FUTURES COMMAND	83
ARAP-U. S. MILITARY ENTRANCE PROCESSING COMMAND	184
ARCE-U.S. ARMY CORPS OF ENGINEERS	2,083
ARCH-US ARMY CIVILIAN HUMAN RESOURCES AGENCY	94
ARFC-U.S. ARMY FORCES COMMAND	331
ARHR-U.S. ARMY RESERVE COMMAND	703
ARMC-U.S. ARMY MEDICAL COMMAND	41
ARNG-ARMY NATIONAL GUARD UNITS	1,072
ARSB-FIELD OPERATING OFFICES OF THE OFFICE OF THE SECRETARY OF THE ARMY	20

ARTA-U.S. ARMY RECRUITING COMMAND AND U.S. ARMY CADET COMMAND	101
ARTC-U.S. ARMY TRAINING AND DOCTRINE COMMAND	1,570
ARX6-U.S. ARMY AVIATION AND MISSILE COMMAND	16
ARX7-U.S. ARMY TANK-AUTOMOTIVE AND ARMAMENT COMMAND (TACOM)	1,078
ARX9-UNITED STATES ARMY MEDICAL LOGISTICS COMMAND	28
ARXA-UNITED STATES ARMY INSTALLATION MANAGEMENT COMMAND	547
ARXC-U.S. ARMY SUSTAINMENT COMMAND	52
ARXD-U. S. ARMY CONTRACTING COMMAND	48
ARXF-UNITED STATES ARMY FINANCIAL MANAGEMENT COMMAND	13
ARXT-U.S. ARMY MILITARY SURFACE DEPLOYMENT AND DISTRIBUTION COMMAND	123
BD00-MERIT SYSTEMS PROTECTION BOARD	12
BO00-OFFICE OF MANAGEMENT AND BUDGET	24
CM54-NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION	661
CM55-INTERNATIONAL TRADE ADMINISTRATION	46
CM56-PATENT AND TRADEMARK OFFICE	510
CM57-NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY	23
CM61-NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION	17
CM63-U.S. CENSUS BUREAU	663
CU00-NATIONAL CREDIT UNION ADMINISTRATION	68
DD01-OFFICE OF THE SECRETARY OF DEFENSE	20
DD06-DEFENSE SECURITY COOPERATION AGENCY	53
DD07-DEFENSE LOGISTICS AGENCY	1,321
DD10-DEFENSE CONTRACT AUDIT AGENCY	458
DD12-DEFENSE COUNTERINTELLIGENCE AND SECURITY AGENCY	66
DD27-MISSILE DEFENSE AGENCY	14
DD34-DEFENSE COMMISSARY AGENCY	1,114
DD48-DEFENSE HUMAN RESOURCES ACTIVITY	231
DD60-DEFENSE HEALTH AGENCY	151
DD63-DEFENSE CONTRACT MANAGEMENT AGENCY	1,240
DD71-DEFENSE MICROELECTRONICS ACTIVITY	199
DD80-DEFENSE MEDIA ACTIVITY	111
DD81-DEFENSE ACQUISITION UNIVERSITY	51
DD82-NATIONAL RECONNAISSANCE OFFICE	32
DD83-MILITARY TREATMENT FACILITIES UNDER DHA	3,264
DJ01-OFFICES, BOARDS AND DIVISIONS	127
DJ03-BUREAU OF PRISONS/FEDERAL PRISON SYSTEM	1,579
DJ08-U.S. MARSHALS SERVICE	47
DJ10-OFFICE OF THE INSPECTOR GENERAL	25
DJ11-U.S. TRUSTEE PROGRAM	90
DJ12-EXECUTIVE OFFICE FOR IMMIGRATION REVIEW	409
DLAA-OFFICE OF THE SECRETARY OF LABOR	15

DLAM-OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION AND MANAGEMENT	43
DLET-EMPLOYMENT AND TRAINING ADMINISTRATION	82
DLLS-BUREAU OF LABOR STATISTICS	148
DLMS-MINE SAFETY AND HEALTH ADMINISTRATION	38
DLOF-OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS	20
DLOW-OFFICE OF WORKERS' COMPENSATION PROGRAMS	99
DLPW-EMPLOYEE BENEFITS SECURITY ADMINISTRATION	25
DLSH-OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION	31
DLSL-OFFICE OF THE SOLICITOR	41
DLVE-VETERANS EMPLOYMENT AND TRAINING SERVICES	19
DLWH-WAGE AND HOUR DIVISION	166
DN00-DEPARTMENT OF ENERGY	468
DNFE-FEDERAL ENERGY REGULATORY COMMISSION	29
EDEC-OFFICE FOR CIVIL RIGHTS	56
EDEN-FEDERAL STUDENT AID	65
EE00-EQUAL EMPLOYMENT OPPORTUNITY COMMISSION	149
EP00-ENVIRONMENTAL PROTECTION AGENCY	930
FD00-FEDERAL DEPOSIT INSURANCE CORPORATION	399
FL00-FARM CREDIT ADMINISTRATION	18
FRFT-BUREAU OF CONSUMER FINANCIAL PROTECTION	99
FT00-FEDERAL TRADE COMMISSION	54
GB00-DEVELOPMENT FINANCE CORPORATION	12
GJ00-PRESIDIO TRUST	304
GS03-PUBLIC BUILDINGS SERVICE	461
GS11-OFFICE OF THE CHIEF FINANCIAL OFFICER	35
GS12-OFFICE OF GENERAL COUNSEL	12
GS14-OFFICE OF THE HUMAN RESOURCES MANAGEMENT	21
GS15-OFFICE OF INSPECTOR GENERAL	12
GS28-OFFICE OF GSA IT	14
GS30-FEDERAL ACQUISITION SERVICE	267
HE10-OFFICE OF THE SECRETARY OF HEALTH AND HUMAN SERVICES	75
HE13-OFFICE OF INSPECTOR GENERAL	84
HE34-HEALTH RESOURCES AND SERVICES ADMINISTRATION	42
HE36-FOOD AND DRUG ADMINISTRATION	700
HE37-INDIAN HEALTH SERVICE	319
HE38-NATIONAL INSTITUTES OF HEALTH	100
HE39-CENTERS FOR DISEASE CONTROL AND PREVENTION	205
HE50-OFFICE OF MEDICARE HEARINGS AND APPEALS	76
HE60-ADMINISTRATION FOR STRATEGIC PREPAREDNESS AND RESPONSE	361
HE70-CENTERS FOR MEDICARE & MEDICAID SERVICES	199
HE90-ADMINISTRATION FOR CHILDREN AND FAMILIES	102
HSAA-DHS HEADQUARTERS	62
HSAB-CITIZENSHIP AND IMMIGRATION SERVICES	793

HSAC-U.S. COAST GUARD	510
HSAE-OFFICE OF THE INSPECTOR GENERAL	22
HSBC-TRANSPORTATION SECURITY ADMINISTRATION	383
HSCA-CYBERSECURITY AND INFRASTRUCTURE SECURITY AGENCY	87
HSCB-FEDERAL EMERGENCY MANAGEMENT AGENCY	1,114
HU09-OFFICE OF THE SENIOR COORDINATOR FOR PACIFIC/HAWAII	338
HUBB-OFFICE OF THE CHIEF HUMAN CAPITAL OFFICER	12
HUCC-OFFICE OF GENERAL COUNSEL	13
HUDD-ASSISTANT SECRETARY FOR COMMUNITY PLANNING AND DEVELOPMENT	25
HUGG-OFFICE OF INSPECTOR GENERAL	25
HUMM-ASSISTANT SECRETARY FOR HOUSING--FEDERAL HOUSING COMMISSIONER	40
HUPP-ASSISTANT SECRETARY FOR PUBLIC AND INDIAN HOUSING	28
IN01-OFFICE OF THE SECRETARY OF THE INTERIOR	97
IN05-BUREAU OF LAND MANAGEMENT	868
IN06-INDIAN AFFAIRS	113
IN07-BUREAU OF RECLAMATION	942
IN08-GEOLOGICAL SURVEY	943
IN10-NATIONAL PARK SERVICE	2,550
IN15-U.S. FISH AND WILDLIFE SERVICE	770
IN21-OFFICE OF THE SOLICITOR	35
IN24-OFFICE OF THE INSPECTOR GENERAL	26
IN26-BUREAU OF SAFETY AND ENVIRONMENTAL ENFORCEMENT	40
IN27-BUREAU OF OCEAN ENERGY MANAGEMENT	55
IN28-BUREAU OF INDIAN EDUCATION	101
KS00-CORPORATION FOR NATIONAL AND COMMUNITY SERVICE	54
NF00-NATIONAL SCIENCE FOUNDATION	16
NL00-NATIONAL LABOR RELATIONS BOARD	104
NN10-HEADQUARTERS, NASA	88
NN21-AMES RESEARCH CENTER	1,176
NN23-LANGLEY RESEARCH CENTER	20
NN24-NEIL A. ARMSTRONG FLIGHT RESEARCH CENTER	507
NN76-JOHN F. KENNEDY SPACE CENTER	12
NQ00-NATIONAL ARCHIVES AND RECORDS ADMINISTRATION	107
NV11-IMMEDIATE OFFICE OF THE CHIEF OF NAVAL OPERATIONS	93
NV12-DIRECTORATE FOR ADMINISTRATIONS, LOGISTICS, AND OPERATIONS (DALO)	309
NV14-OFFICE OF NAVAL RESEARCH	109
NV18-NAVAL MEDICAL COMMAND	347
NV19-NAVAL AIR SYSTEMS COMMAND	8,701
NV22-BUREAU OF NAVAL PERSONNEL	874
NV23-NAVAL SUPPLY SYSTEMS COMMAND	708
NV24-NAVAL SEA SYSTEMS COMMAND	4,550
NV25-NAVAL FACILITIES ENGINEERING COMMAND	4,368
NV27-U.S. MARINE CORPS	4,040



NV30-STRATEGIC SYSTEMS PROGRAMS (SSP)	38
NV39-COMMANDER, NAVAL INFORMATION WARFARE SYSTEMS COMMAND (NAVWARSSYSCOM)	5,148
NV41-NAVY SYSTEMS MANAGEMENT ACTIVITY	89
NV52-COMMANDER, NAVY INSTALLATIONS	1,409
NV60-UNITED STATES FLEET FORCES COMMAND	576
NV70-U.S. PACIFIC FLEET, COMMANDER IN CHIEF	2,765
NV72-NAVY RESERVE FORCE	29
NV74-NAVAL SPECIAL WARFARE COMMAND	455
NV76-NAVAL EDUCATION AND TRAINING COMMAND	479
OM00-OFFICE OF PERSONNEL MANAGEMENT	47
PU00-PEACE CORPS	26
RR00-RAILROAD RETIREMENT BOARD	25
SB00-SMALL BUSINESS ADMINISTRATION	801
SE00-SECURITIES AND EXCHANGE COMMISSION	339
ST00-DEPARTMENT OF STATE	229
SZ00-SOCIAL SECURITY ADMINISTRATION	5,782
TD01-OFFICE OF THE SECRETARY OF TRANSPORTATION	29
TD03-FEDERAL AVIATION ADMINISTRATION	3,388
TD04-FEDERAL HIGHWAY ADMINISTRATION	63
TD05-FEDERAL RAILROAD ADMINISTRATION	58
TD09-FEDERAL TRANSIT ADMINISTRATION	40
TD13-MARITIME ADMINISTRATION	69
TD16-PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION	15
TD17-FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION	67
TR91-DEPARTMENTAL OFFICES	18
TR93-INTERNAL REVENUE SERVICE	6,624
TRAD-U.S. MINT	164
TRAJ-OFFICE OF THE COMPTROLLER OF THE CURRENCY	172
TRTG-OFFICE OF THE INSPECTOR GENERAL FOR TAX ADMINISTRATION	38
VAAA-OFFICE OF THE SECRETARY	57
VAAD-BOARD OF VETERANS APPEALS	39
VAAE-GENERAL COUNSEL	33
VAAF-INSPECTOR GENERAL	86
VABC-CHIEF HUMAN CAPITAL OFFICER	13
VABF-DEPUTY ASSISTANT SECRETARY FOR OFFICE OF RESOLUTION MANAGEMENT	31
VADD-DEPUTY ASSISTANT SECRETARY FOR FINANCE	23
VADG-EXECUTIVE DIRECTOR, OFFICE OF ACQUISITION AND LOGISTICS	20
VAEB-DEPUTY ASSISTANT SECRETARY FOR INFORMATION AND TECHNOLOGY	476
VALA-VETERANS BENEFITS ADMINISTRATION	2,011
VAPA-NATIONAL CEMETERY ADMINISTRATION	224
VATA-VETERANS HEALTH ADMINISTRATION	35,548

All Agencies	150,554
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# Exhibit B



## UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

Washington, DC 20415

The Director

**MEMORANDUM**

**TO:** Heads and Acting Heads of Departments and Agencies

**FROM:** Charles Ezell, Acting Director, U.S. Office of Personnel Management

**DATE:** January 20, 2025

**RE:** Guidance on Probationary Periods, Administrative Leave and Details

The U.S. Office of Personnel Management (OPM) is providing the following guidance to agencies regarding critical potential personnel actions. Specifically, this memorandum deals with 1) probationary periods, and 2) administrative leave and details.

**I. Probationary Periods**

Probationary periods are an essential tool for agencies to assess employee performance and manage staffing levels.<sup>1</sup> Employees on probationary periods can be terminated during that period without triggering appeal rights to the Merit Systems Protection Board (MSPB).<sup>2</sup>

Generally, employees in the competitive service with less than one year of service, and in the excepted service with less than two years of service, can be terminated without triggering MSPB appeal rights.<sup>3</sup> This applies to temporary employees on appointments “not to exceed” a date certain.<sup>4</sup>

No later than January 24, 2025, agencies should identify all employees on probationary periods, who have served less than a year in a competitive service appointment, or who have served less than two years in an excepted service appointment, and send a report to OPM listing all such employees to [employeeaccountability@opm.gov](mailto:employeeaccountability@opm.gov), with a copy to Amanda Scales at [amanda.scales@opm.gov](mailto:amanda.scales@opm.gov). In addition, agencies should promptly determine whether those employees should be retained at the agency.

**II. Administrative Leave and Details**

<sup>1</sup> See U.S. Merit Systems Protection Board Report to the President and Congress, *The Probationary Period: A Critical Assessment Opportunity* (August 2005), [https://www.mspb.gov/studies/studies/The\\_Probationary\\_Period\\_A\\_Critical\\_Assessment\\_Opportunity\\_224555.pdf](https://www.mspb.gov/studies/studies/The_Probationary_Period_A_Critical_Assessment_Opportunity_224555.pdf).

<sup>2</sup> *Starkey v. Dep’t of Hous. and Urban Dev.*, 2024 MSPB 6, ¶ 16; *Marynowski v. Dep’t of the Navy*, 2012 MSPB 82, ¶ 4 (2012).

<sup>3</sup> *Forest v. Merit Sys. Prot. Bd.*, 47 F.3d 409, 412 (Fed. Cir. 1995); *Holmes v. Merit Sys. Prot. Bd.*, 655 F. App’x 816, 818 (Fed. Cir. 2016); see also 5 U.S.C. §§ 7511(a)(1)(A), (C).

<sup>4</sup> See *Forest*, 47 F.3d at 410; *Holmes*, 655 F. App’x at 816.

“Federal agencies have the discretion to grant paid administrative leave to employees to help manage their workforces when it is in their best interest to do so.”<sup>5</sup> The flexibility given to agencies in using paid administrative leave reflects the fact that “heads of Executive agencies have broad authority to manage their organizations, including the authority to grant administrative leave, unless prohibited by law.”<sup>6</sup>

OPM regulations note four pertinent areas where paid administrative leave is appropriate: (1) “the absence is directly related to the agency’s mission,” (2) “the absence is officially sponsored or sanctioned by the agency,” or (3) “the absence will clearly enhance the professional development or skills of the employee in the employee’s current position,” or (4) “the absence is in the interest of the agency or of the Government as a whole.”<sup>7</sup> “An agency must retain the discretion to grant or not grant administrative leave in any circumstance based on agency judgments regarding mission needs.”<sup>8</sup>

Placing an employee on paid administrative leave may be an appropriate action where the agency component in which the employee works is being eliminated or restructured, or where the agency weighs changes to the individual’s role at the agency as part of a workforce realignment. It also may be appropriate when a new agency manager determines that the absence of the employee from the office “is in the interest of the agency or of the Government as a whole.”<sup>9</sup> Agencies are encouraged to use flexibilities associated with paid administrative leave as they implement agency restructuring initiatives or determine the best ways to manage agency components going forward.

In addition, agency heads have broad discretion to detail employees “among the bureaus and offices of [their] department[s]” for up to 120 days by written order.<sup>10</sup> An agency may temporarily detail an employee to “unclassified duties.”<sup>11</sup> Such details may provide additional

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<sup>5</sup> *Administrative Leave, Investigative Leave, and Notice Leave*, 89 Fed. Reg. 10,2256-01 (Dec. 17, 2024).

<sup>6</sup> U.S. Office of Personnel Management, *Fact Sheet: Administrative Leave*, <https://www.opm.gov/policy-data-oversight/pay-leave/leave-administration/fact-sheets/administrative-leave/>.

<sup>7</sup> 5 C.F.R. § 630.1403(a)(1).

<sup>8</sup> 5 C.F.R. § 630.1403(a)(4). OPM reiterates that while “[t]he effective date for these regulations addressing administrative leave (subpart N) and investigative and notice leave (subpart O) is 30 days after the date of publication,” nonetheless “the compliance date is set as 270 days after the date of publication.” 89 Fed. Reg. at 10,2257. That is, agencies must “revise and implement their internal policies consistent with the Act within 270 calendar days from the date OPM prescribes the regulations,” and “[a]gencies are responsible for compliance with time limits provided for in the Act, these OPM regulations, and any related guidance.” *Id.* OPM thus believes that agencies are not required to comply with the administrative leave rule and new regulations until September 13, 2025, the deadline for agencies to issue their own implementing regulations. **OPM requests that agencies not issue any agency-specific rules until such rules have been reviewed and approved by OPM.**

<sup>9</sup> 5 C.F.R. § 630.1403(a)(1).

<sup>10</sup> 5 U.S.C. § 3341.

<sup>11</sup> *Frankel v. Dep’t of Educ.*, 17 M.S.P.R. 453, 455–56 (1983).

flexibilities to agencies during the transition period and as agencies undertake reorganization efforts and close offices.

Please do not hesitate to contact OPM if you have any questions regarding these matters at [employeeaccountability@opm.gov](mailto:employeeaccountability@opm.gov), with a copy to Amanda Scales at [amanda.scales@opm.gov](mailto:amanda.scales@opm.gov).

cc: Chief Human Capital Officers (CHCOs), Deputy CHCOs, and Human Resources Directors